U.S. Patent No. 6,363,088 (hereinafter "Alphonse"), Applicants respectfully traverse on the ground that the Holcomb reference is not available as a prior art reference against the present application for a rejection under §103(a).

More specifically, the present application, as an application filed on or after November 29, 1999, is entitled to the benefit of 35 U.S.C. §103(c). Also, the subject matter of the Holcomb reference and the claimed invention of the present application were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person, namely, Lucent Technologies Inc. The Holcomb reference, as indicated on the cover page thereof, is apparently assigned of record to Lucent Technologies Inc. An assignment of the present application to Lucent Technologies Inc. was recorded in the U.S. Patent and Trademark Office on April 25, 2002, at Reel 012862, Frame 0634.

Applicants therefore submit that the Holcomb reference, which issued subsequent to the filing date of the present application, is not available as a prior art reference against the present application for a §103(a) rejection.

The §103(a) rejection is therefore believed to be improper, and should be withdrawn.

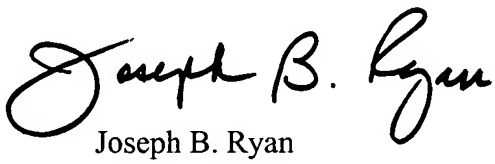
Claims 1, 3, 5, 8, 12, 14 and 17 stand rejected under 35 U.S.C. §102(a) as being anticipated by Holcomb. Applicants respectfully traverse. The Holcomb reference has an issue date of September 24, 2002. As indicated above, the present application was filed on February 28, 2002, prior to the issue date of the Holcomb reference. Thus, Holcomb was not "patented or described in a printed publication" before the present invention, in accordance with §102(a). The §102(a) rejection is therefore believed to be improper, and should be withdrawn.

Applicants further note that the Holcomb reference fails to anticipate independent claims 1 and 12 under §102(e). MPEP §2131 specifies that a given claim is anticipated "only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference," citing Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, MPEP §2131 indicates that the cited reference must show the "identical invention . . . in as complete detail as is contained in the . . . claim," citing Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Applicants respectfully submit that the Holcomb reference fails to meet each and every limitation

of independent claims 1 or 12. Moreover, as described previously, the Holcomb reference is not available for use as an obviousness reference against claims 1 and 12.

In view of the above, Applicants believe that claims 1, 3, 5-8, 11, 12, 14, 16 and 17 are in condition for allowance, and respectfully request the withdrawal of the §102(a) and §103(a) rejections.

Respectfully submitted,



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